

Court Ruling Loosened Strictures on Agents

Justices Toss Wiretap Question to Congre

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Congress will have an early opportunity to give the Supreme Court some advice on when federal agents should stop listening to wiretapped conversations.

Yesterday, the court indicated that the agents now have wide discretion to determine when not to listen, even though Congress has declared that agents should minimize their eavesdropping as much as possible.

Congress wrote that provision into the 1968 wiretapping law as one means of trying to limit the invasions of privacy when agents "bug" conversations under court order.

This year, the lawmakers are considering adding a similar provision to a new bill that would control wiretapping in national security and espionage cases.

A "minimization" clause is included in the Senate-passed version of that bill. Yesterday, Senate aides indicated that the lawmakers will want to study the court's new decision to see how, if at all, they might react. A House committee is starting work on the new bill this week.

ALTHOUGH THE justices' decision dealt only with the 1968 law, its reasoning could be applied to the new wiretap bill, too, unless Congress decides to undo or modify yesterday's ruling.

The court said that even experienced federal agents might have trouble deciding which calls they should not monitor to the end.

Thus, the court indicated that agents would not be found at fault unless, on a case-by-case basis, it is clear that they abused their eavesdropping authority by listening too much to calls that involved no criminal conversation.

The 7-2 decision rejected an appeal by two persons convicted for their roles in a narcotics ring operation in the District in 1970. Frank R. Scott and Bernis L. Thurmon were convicted of narcotics charges and sentenced to 10 years each in prison.

In monitoring a telephone at a Northwest Washington apartment, agents listened to every one of the 384 calls made to that phone. Only about 40 percent involved talk about narcotic operations.

The agents were eavesdropping under a court order that required them to "minimize the interception" of non-criminal conversations.

THE U.S. COURT of Appeals here ruled that the agents had not violated the 1968 law's "minimization" requirement, and the Supreme Court yesterday agreed.

The justices acted on that issue amid a flurry of activity that marked their return from a two-week recess.

The court will be holding public sessions once a week until they finish ruling on all remaining pending cases. Among the cases awaiting a ruling is the Allan Bakke case on "reverse discrimination" against whites. The court did nothing on that case yesterday.

Among the announced actions were these:

- In another wiretapping case, the court left standing a lower court decision that agents who have a court order permitting "bugging" may break into private property to install or maintain the "bugs."

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